

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

GRIFFIN INDUSTRIES, INC.

PLAINTIFF

VS.

CIVIL ACTION NO. 3:09CV576 TSL-FKB

MISSISSIPPI POULTRY CORPORATION  
F/K/B FD FOODS, INC., FD FOODS, INC. AND  
JOHN DOES 1 THROUGH 10.

DEFENDANTS

ORDER

Before the court is the November 19, 2010 report and recommendation of United States Magistrate Judge F. Keith Ball, recommending that plaintiff's motion to strike be granted to the extent that defendant Mississippi Poultry Corporation should be required to pay plaintiff's attorneys' fees incurred by the filing of the motion to strike. Having considered the report and recommendation, the court agrees that plaintiff is entitled to redress for defendant's failure to produce discovery. However, the court declines to impose a monetary sanction at this time and thus adopts the report and recommendation subject to the following modifications: Plaintiff's motion is granted to the extent that, on or before January 1, 2011, defendant Mississippi Poultry shall make available to plaintiff for inspection and copying all of the documents required for production in the court's July 6, 2010 order, which granted plaintiff's motion to compel. Furthermore, in the event that defendant fails to make the required production by January 1, 2011, plaintiff shall be

entitled to an award of attorneys' fees in the amount of \$3,350.50.

Based on the foregoing, it is ordered that the November 19, 2010 report and recommendation is adopted as the opinion of the court subject to the foregoing modification.

SO ORDERED this the 8th day of December, 2010.

/s/ Tom S. Lee\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE